

# 10. LOBBYING

## BASIC REQUIREMENT

Recipients of federal grants and contracts exceeding \$100,000 must certify compliance with Restrictions on Lobbying before they can receive funds. In addition, grantees are required to impose the lobbying restriction provisions on their contractors.

## AREAS TO BE EXAMINED

### 1. *Certification*

Certifications are required for all federal grant recipient and subrecipient agreements, and contracts and subcontracts exceeding \$100,000. This certification is part of the Annual List of Certifications and Assurances. The clause with this requirement also needs

to be included in third-party contracts over the required threshold.

### 2. *Standard Form LLL*

If non-federal funds have been used to support lobbying activities, submission of [Standard Form-LLL](#), "Disclosure Form to Report Lobbying," is required. Each grantee shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed.

## REFERENCES

1. [49 CFR Part 20](#), "New Restrictions on Lobbying."

# QUESTIONS FOR THE REVIEW

1. *Has the grantee included the lobbying clause in all agreements and procurement solicitations exceeding \$100,000? Have subgrantees, contractors, and subcontractors signed certifications?*

## EXPLANATION

Grantees are required to include the lobbying clause in agreements, contracts, and subcontracts exceeding \$100,000. Signed Certifications Regarding Lobbying must be obtained by the grantee from subgrantees and contractors. The contractor retains its subcontractors' certifications.

## REASON FOR THE QUESTION

[49 CFR Part 20](#)

## SOURCES OF INFORMATION

Solicitation documents and contract files are the primary source of this information.

## DETERMINATION

If the grantee has included the lobbying clause in its agreements and procurement solicitations, it is not deficient. If not, the grantee is deficient. If the grantee has obtained the proper certifications from subgrantees and contractors, the grantee is not deficient. If not, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

The grantee must certify to FTA that it will have subgrantees, contractors, and subcontractors comply with the lobbying requirement. The grantee's written procurement procedures should be updated to include the requirement. The grantee should retain the original certifications of subgrantees and contractors in its files.

2. *Has the grantee used non-federal funds for lobbying activities? If yes, have proper disclosures been made and filed with FTA on [Standard Form LLL](#)? Have all disclosures been updated quarterly, if needed, and so reported?*

## EXPLANATION

The use of federal funds for lobbying is prohibited. If lobbying services are procured with non-federal funds, the grantee is required to submit the disclosure form, [Standard Form LLL](#). Activities that are required to be disclosed include the hiring of any third-party (i.e., lobbyist) for the purposes of attempting to influence a covered federal action. Disclosure is not required for activities performed by the grantees own regularly employed officers and employees.

Covered federal action means any of the following federal actions:

1. The awarding of any federal contract;
2. The making of any federal grant;
3. The making of any federal loan;
4. The entering into of any cooperative agreement; and,
5. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Updates to Standard Form LLL are required for each calendar quarter in which any event occurs that requires disclosure, or that materially affects the accuracy of the information contained in any disclosure form previously filed by the entity. Those events may include:

- a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a "covered federal action";
- a change in the person(s) attempting to influence such action; or
- a change in the officer(s), employee(s), or member(s) contacted to attempt to influence such action.

## REASON FOR THE QUESTION

[49 CFR Part 20](#)

## SOURCES OF INFORMATION

[Standard Form-LLL](#) and quarterly reports should be in the regional office files. The original forms and other reports are forwarded to the Regional Counsel quarterly, as required. This question should be asked at the site visit. Discuss with the grantee the process for receiving and forwarding the disclosure statements.

## DETERMINATION

If the grantee did not engage in any lobbying using non-federal funds, the grantee is not deficient. The grantee is not deficient if lobbying activities have occurred (using non-federal funds) or if there has been a material change in the status of the previous disclosure and the grantee has submitted [Standard Form LLL](#) and/or quarterly reports. If any event occurred that should have been reported, and the grantee did not file [Standard Form LLL](#) and a quarterly report, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

The grantee must submit the documentation to FTA as required.

3. *Have subgrantees, contractors, and subcontractors that filed certifications used non-federal funds for lobbying activities? If yes, have proper disclosures been made and filed with the grantee on [Standard Form LLL](#)? Have all disclosures been updated quarterly if needed and so reported?*

## EXPLANATION

Any subgrantee, contractor, and subcontractor in receipt of a grant/contract exceeding \$100,000 is subject to the same disclosure and updating requirements as the grantee. All certifying entities must ensure that any quarterly disclosure forms are forwarded to the grantee, which must report to FTA.

## REASON FOR THE QUESTION

[49 CFR Part 20](#)

## SOURCES OF INFORMATION

[Standard Form-LLL](#) and quarterly reports for the grantee's subgrantees, contractors, and subcontractors should be in the regional office files. The original forms and other reports are forwarded to the Regional Counsel quarterly, as required. This question should be asked at the site visit. Discuss with the grantee the process for receiving and forwarding the disclosure statements.

## DETERMINATION

If the grantee's subgrantees, contractors, and subcontractors did not engage in any lobbying using non-federal funds, the grantee is not deficient. The grantee is not deficient if lobbying activities have occurred or if there has been a material change in the status of the previous disclosure and the grantee has submitted the [Standard Form-LLL](#) and/or quarterly report. If any event occurred that should have been reported, and the grantee did not file Standard Form LLL and quarterly report, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

The grantee must submit the documentation to FTA as required.

4. *Does the grantee have an appropriate process for receiving and filing the certifications and disclosure statements ([Standard Form LLL](#) and quarterly update)?*

## EXPLANATION

The grantee should have a process for receiving and filing the certifications and disclosure forms. This process can be included in procurement procedures.

## REASON FOR THE QUESTION

[49 CFR Part 20](#)

## SOURCES OF INFORMATION

The grantee's written procurement procedures may include this requirement. Or, there may be separate procedures established for receiving and filing lobbying certifications and disclosure statements.

## DETERMINATION

If the grantee has a process to ensure the receipt of certifications and disclosure statements and filing them with FTA, it is not deficient. If it does not have such a process, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

The grantee should develop and/or document the process for receiving and filing lobbying certifications and disclosure statements.